

IN THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION

FILED  
STATESVILLE, N.C.

2003 APR -7 AM 9:39

U.S. DISTRICT COURT  
W. DIST. OF N.C.

No. 5:02-CV-111-V

DIRECTV, Inc.,

Plaintiff,

v.

BERNARD DAVIDSON,

Defendant.

PLAINTIFF'S MOTION TO  
DISMISS COUNTERCLAIM

Fed. R. Civ. P. 12(b)(6)

Plaintiff DIRECTV, Inc., ("DIRECTV"), by its attorney, hereby moves pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure that this Court dismiss the counterclaim of Defendant Bernard Davidson because the counterclaim fails to state a claim against DIRECTV upon which relief can be granted. In support of its motion, DIRECTV submits its Memorandum in Support of its Motion to Dismiss.

DATED this 3<sup>rd</sup> day of April, 2003.

ELLIS & WINTERS LLP



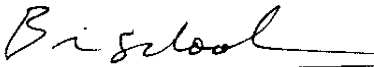
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**CERTIFICATE OF SERVICE**

I, Brian J. Schoolman, do certify that I have served a true and correct copy of the attached motion by depositing a copy thereof in the United States mail, postage prepaid, first class, addressed to the defendant as follows:

Andrew J. Wingo, Esq.  
330 South Main Street  
Mooresville, NC 28115  
*Attorney for Bernard Davidson*

This the 3<sup>rd</sup> day of April, 2003.

  
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Brian J. Schoolman